

FILED

FEB 11 2010

**SECRETARY, BOARD OF
OIL, GAS & MINING**

**BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH**

UTAH CHAPTER OF THE SIERRA CLUB,
et al, Petitioners,

vs.

UTAH DIVISION OF OIL, GAS & MINING
and

ALTON COAL DEVELOPMENT, LLC,
Respondents.

**ORDER APPROVING STIPULATED
DISCOVERY PLAN**

Docket No. 2009-~~005~~ - 019-JC

Cause No. C/025/0005

Pursuant to Utah Administrative Code R641-108-900 and Utah Code § 40-10-14(5) the joint motion of the Utah Chapter of the Sierra Club, et al (“**Petitioners**”), the Division of Oil, Gas & Mining (“the Division”), and Alton Coal Development, LLC (“**Alton**”) for discovery in the above-captioned matter is GRANTED, and the parties’ stipulated discovery plan is APPROVED. In view of the Board’s approval of this stipulated discovery plan, Petitioners’ Motion for Leave to Conduct Discovery filed with the Board on January 19, 2010 is DISMISSED without prejudice. The joint motion and stipulated discovery plan were presented orally at the Board’s January 27, 2010 hearing. Board members Douglas E. Johnson, Chairman, Jake Y. Harouny, Samuel J. Quigley, Jean Semborski, Ruland J. Gill, Jr., James T. Jensen, and Kelly L. Payne were present at the hearing and voted unanimously to grant the parties’ joint motion.

Therefore, for good cause appearing, discovery shall be had upon the following terms and conditions proposed by the parties in their oral motion and stipulation of a discovery plan before the Board.

ORDER

A. Site Inspection

Alton will provide Petitioners with access to all of the permit and adjacent areas where they have control or right of entry, effective immediately, on the following terms and conditions:

1. Alton will permit Petitioners' representatives to enter on the permit area that Alton designated in application No. C0250005, and those parts of the cumulative impact area designated in the cumulative hydrologic impact assessment that the Division performed for the permit to which Alton may lawfully grant access to others. Access is permitted for four weekdays designated by Petitioners which need not be consecutive. Access is permitted for the purposes of inspection and measuring, surveying, photographing, testing, or sampling the property. The extent of the permit area and the cumulative impact area are more particularly described and mapped in Application No. C0250005 and the Division's approval documents, respectively. Petitioners' representatives during the requested inspection include counsel of record, Petitioners' consultant(s) on geology and hydrology, including the existence of alluvial valley floors on the subject property, and no more than two of Petitioners' members. Petitioners' representatives shall be permitted to drive or hike to and across the areas to be inspected and to obtain samples of water, soil, or other earth materials by hand or handheld instruments in a manner consistent with accepted scientific practice of geologists and hydrologists.

2. Petitioners will be accompanied at all times on site by an escort provided by Alton, and by the Division.

3. The escort will create a digital or videotape recording of the activities on site at Alton's expense. The recording is to be made without sound unless agreed otherwise. Petitioners and the Division shall be entitled to receive a copy of the recording.

4. All parties agree that access to the site is entirely at their own risk.

5. Petitioner will provide Alton with a split of any samples collected during the visit.

Each party will provide its own sample containers.

6. To facilitate efficient use of time on site, Petitioner's and Alton's experts will meet in advance, accompanied by counsel, to identify appropriate times for obtaining the necessary site information.

7. Parties acknowledge that Petitioners are willing to conduct their site visit before snowmelt has occurred, but have reservations that all of their objectives can be accomplished under available site conditions. Petitioners therefore expressly reserve the right to request a follow up visit either informally or through a Board Order for Discovery.

8. The Division will assist in obtaining access to areas material to the AVF determination.

9. The parties will endeavor to perform the site visit between February 16 and March 5, 2010.

B. Production of Documents

1. Alton and the Division will provide, as soon as possible but in any event prior to the site visit, field notes, laboratory reports, and logs of geological and hydrological investigations by either party or their consultants for inspection by Petitioners.

2. The Division will produce a compact electronic data disk containing the permit application and other documents related to the permit approval to be current as of the date the permit was approved.

C. Depositions

Pursuant to Rule 30(b)(6), Utah Rules of Civil Procedure, the parties will take depositions as follows:

1. Alton and the Division shall make witnesses available for deposition upon oral examination during the period from February 16 through March 5, 2010 upon topics to be agreed upon by the parties. Scope of examination to include materials submitted to the Division, background as necessary, and the review process by the Division.

2. Petitioners shall make witnesses available for deposition upon oral examination upon topics to be agreed by the parties between March 8 and March 19, 2010. Scope of examination to be basis of contentions by Petitioners and foundation for the Request for Relief.

D. Other

Interrogatories are not allowed. Requests for Admission are not allowed unless otherwise agreed and ordered by the Board.

Petitioners will serve their initial hearing witness list on Respondents on or before March 5, 2010.

Respondents will serve their initial hearing witness list on Petitioners on or before February 10, 2010.

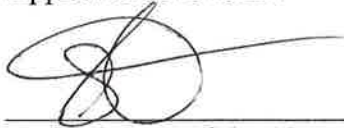
Exhibits and final witness lists will be exchanged electronically on or before April 7, 2010. At that time, parties will identify all scientific or technical references or treatises upon which they will rely at hearing.

So ordered this _____ day of _____, 2010.

UTAH BOARD OF OIL, GAS & MINING

Douglas E. Johnson
Chairman

Approved as to form:



Utah Chapter of the Sierra Club, et al
Petitioners



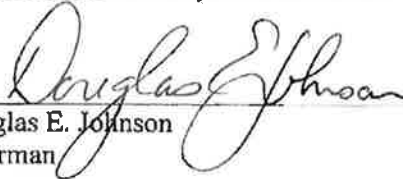
Utah Division of Oil, Gas & Mining
Respondent



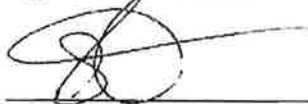
Alton Coal Development, LLC
Respondent

So ordered this 11 day of FEBRUARY, 2010.

UTAH BOARD OF OIL, GAS & MINING


Douglas E. Johnson
Chairman

Approved as to form:



Utah Chapter of the Sierra Club, et al
Petitioners



Utah Division of Oil, Gas & Mining
Respondent



Alton Coal Development, LLC
Respondent

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing ORDER APPROVING STIPULATED DISCOVERY PLAN for Docket No. 2009-019, Cause No. C0250005 to be mailed with postage prepaid, this 16th day of February, 2010, to the following:

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A handwritten signature in blue ink that reads "Julie Ann Carter". The signature is written in a cursive style and is positioned above a horizontal line.